

Entered - 05/08/01 - sb
CL01L0282 - DIANNE C. MITCHELL

01-R-1048

CLAIM OF: **JOHN DIAZ**
11815 Rue La Fontaine
Tomball, Texas 77375

For damages alleged to have been sustained as a result of falling on
a sidewalk on January 7, 2001 at the Atlanta Airport.

THIS ADVERSED REPORT IS APPROVED

BY: 
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 01L0282

Date: June 20, 2001

Claimant /Victim JOHN DIAZ

BY: (Atty)(Ins. Co.) _____

Address: 11815 Rue La Fontaine, Tomball, Texas 77375

Subrogation: _____ Claim for Property damage \$ _____ Bodily Injury \$ 5,000.00

Date of Notice: 05/07/01 Method: Written, proper X Improper _____

Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X

Date of Occurrence 01/07/01 Place: Atlanta Airport

Department Aviation Division: _____

Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: The claimant alleges he was injured when he fell on the sidewalk near the Continental baggage handling area. The claim has been forwarded to the insurance carrier, AIG Aviation, for handling.

INVESTIGATION:

Statements: City employee _____ Claimant _____ Others _____ Written _____ Oral _____

Pictures _____ Diagrams _____ Reports: Police _____ Dept Report _____ Other _____

Traffic citations issued: City Driver _____ Claimant Driver _____

Citation disposition: City Driver _____ Claimant Driver _____

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial _____

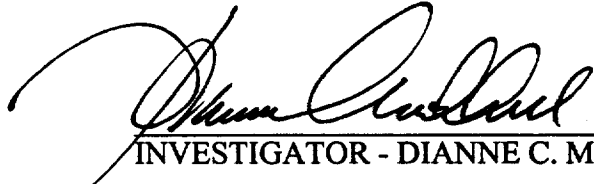
Improper Notice _____ More than Six Months _____ Other X Damages reasonable _____

City not involved _____ Offer rejected _____ Compromise settlement _____

Repair/replacement by Ins. Co. _____ Repair/replacement by City Forces _____

Claimant Negligent _____ City Negligent _____ Joint _____ Claim Abandoned _____

Respectfully submitted,


INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ _____ Adverse X Account charged: 1A01 _____ 2J01 _____ 2H01 _____

Claims Manager: Dianne C. Mitchell Concur/date 06-22-01

Committee Action: _____ Council Action _____

M. Mitchell
05/07/01
DM

11815 Rue La Fontaine
Tomball, Texas 77375
May 5, 2001

Ms. Dianne Mitchell
City of Atlanta Legal Department
City Hall Tower
68 Mitchell Street
Atlanta, Georgia 30335

ENTERED - 5-8-01 - SB
01L0282 - DIANNE MITCHELL

Dear Ms. Mitchell,

Nancy Tibbets, (Risk Management for Continental Airlines) was kind enough to provide me with your name and address. I thought it best to drop you a line and recount an accident I had on January 7, 2001.

My wife and I were returning to Houston on Sunday January 7, 2000 via Continental Flight 1581 from Atlanta to Houston. Scheduled departure was 3:30 Atlanta time. We checked in our rental car at about 2PM and took the National Car Rental shuttle to the Atlanta Continental check-in counter. Outside the check in counters there was a baggage handling counter manned by two Continental employees. (I later found out these are contract people) As I approached the counter I saw that I had to come around to the street side versus walking up to the agents on the side facing the building. I stepped off the sidewalk onto what I believed to be level ground. After putting my foot down my right leg gave way and I fell into the street, my nose hitting the curb and my shoulder smashing into the pavement. Seeing that I was hurt, the agents called the EMS people who arrived within 10 minutes. They sat me in a wheelchair and checked my vital signs determining that I was conscious. I complained that I had severe pain in my right arm and shoulder. They asked if I wanted to be taken to the hospital for X rays. I told them that I had to catch a 3:30 plane; a porter wheeled me inside to the Continental counter where my wife attempted to have my ticket upgraded to first class which would afford me more room than a coach seat. She talked to the supervisor who verified that first class was not available on our flight. While sitting beside the check-in counter, the pain in my shoulder was becoming more severe. The EMS technician came over to check on me; I informed him and my wife that I couldn't stand the pain and I would like to have an X ray performed. The technician stated that there was a hospital 5 minutes away but it was not available to them (I was not sure why it wasn't available to them.) His advice was that we take a cab there and attempt to get help there as civilians. Our luggage was already checked on Flight 1581. My wife had to make arrangements to secure the luggage, determine availability of a later flight (in first class), and secure a cab to take us to the closest hospital. We took a cab and arrived at the Fulton County Emergency Room about a half hour later.

After a 3 hr. wait in hospital, we were seen by Dr. Williams who ordered X-RAYS. I informed him all of the medication I was taking. Since I was a diabetic he proceeded to take my blood sugar. It was 400-high due to the trauma of a broken bone. He ordered administration of Pain medication, and wrote a prescription I could pick up at a local drug store. The nurses made sure it was open Sunday night. They called a cab, which we took first to the drug store and then to Westin Hotel.

My wife contacted Continental Airlines who could put us on a flight to Houston the next day (first class for me using her frequent flyer miles).

The following Tuesday I visited Dr. William Hayes, an orthopedic surgeon, who took X rays of my shoulder. He told me that the break appeared to be clean and that if I was able to keep my arm immobilized I could avoid his placing a pin in the arm. I returned for a follow-up examination (including X rays) to determine the satisfactory progress of healing.

I had attempted to get comfortable in bed but I had slipped and fallen off the bed because of the height off the ground. I was unable to get up because I couldn't use my right arm. To accommodate this my wife rented a hospital bed for 30 (went to 60 days) days with an adjustable angle and height. It has operated satisfactorily so far.

I had religiously remained in bed during the days to keep my arm stable to avoid complications and further damage. I HAD NOT BEEN ABLE TO USE MY RIGHT ARM EVEN TO SIGN A CHECK. Of course I could not drive my car. I could not prepare meals for myself and my wife worked during the daytime. We ordered prepackaged meals to be delivered once a weeks. This situation continued until February 14, 2001 when I went for a final checkouts with my orthopedic surgeon. He released me to drive. I have been taking therapy at a local physical fitness facility and have had regular sessions with a massage therapist to prevent atrophy of the muscles in my shoulder.

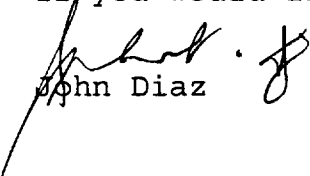
As of mid March I have been back to work. I am a self-employed investment banker with an office in my home. As a practical matter I lost 2 months when I was unable to manage the pain and get around sufficiently to meet with clients.

My medical and associated bills have amounted to about \$5,000; about half of that has been covered by Medicare. I will have a continuing expense of rehab therapy probably for another 3 months.

The situation at the location of my accident is a potentially dangerous one. My eyesight is excellent (20/20 with glasses) and I had no warning of the drop off. To say the least, the area needs to be marked off or someone else is going to do the same thing that I did. (If this hasn't already happened).

Surely the City of Atlanta has insurance covering this type of accident. I am in the hopes that my medical bills would be taken care of and that I would be compensated for lost work time and for the pain I have endured.

If you would like to talk to me I can be reached at 281-374-7292.


John Diaz

01-R-1048